

Application No. 10/565,541  
Reply to Office Action of May 13, 2008

IN THE DRAWINGS

The attached sheets of drawings include changes to Figs. 1-2 and 6-9. These sheets, which include Figs. 1-2 and 6-9, replace the original sheets including Figs. 1-2 and 6-9.

Attachment: Replacement Sheet(s)

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of the above amendments and following remarks is respectfully requested.

Claims 22 and 24-42 are pending in this application. By this amendment, the specification is amended; the drawings are amended; Claims 22 and 24 are amended; Claim 23 is cancelled; and no claims are added herewith. It is respectfully submitted that no new matter is added by this amendment.

With respect to the changes to the drawings, Figures 1 and 2 are amended to change reference numeral “18” referred to the “first layer” of the upper element (13) into reference numeral “13a” and to maintain reference numeral “18” with reference to the “protective element” of the membrane. With respect to Figures 6-9, reference numeral “311” has been added in Fig 6; reference numeral “400” has been added in Fig. 7 and the original numerals “106” and “115” have been changed into “406” and “145” respectively; reference numeral “500” has been added in Fig. 8 and the original numerals “206” and “215” have been changed into “506” and “515” respectively; and reference numeral “600” has been added in Fig. 9 and the original numerals “306” and “315” have been changed into “606” and “615” respectively.

The specification is amended to be consistent with the changes to the drawings.

In response to the election of species requirement mailed May 13, 2008, Applicants hereby elect species I. Claims 22, 24-32 and 39-42 read on the elected species. This election is made with traverse. Specifically, it is respectfully submitted that the subject matter of all claims 22 and 24-42 is sufficiently related that a thorough search for the subject matter of any one group of claims would necessarily encompass a search for the subject matter of the remaining claims. Claim 22 is amended so as to cover the embodiments shown in all of the Figures 1-9, in which the vapor-permeable comfort layer made of a three-dimensional fabric

and forming a ventilation gap is included in the upper element of the sole for shoes. These recited features of Claim 22 are independent of the features in the upper part of the lower element of lateral venting elements and/or of a vapor-permeable element and of the structure thereof. Thus, it is respectfully submitted that the search and examination of the entire application could be performed without serious burden.

MPEP §803 states that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office. The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all claims in this application

Prompt and favorable examination of the elected claims is respectfully requested.

Respectfully submitted,

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